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**THE VILLAGE OF WILLOW SPRINGS  
COOK COUNTY, ILLINOIS**

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**ORDINANCE  
NUMBER 2018 – O – 03**

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**AN ORDINANCE APPROVING AN AMENDMENT TO THE VILLAGE  
PERSONNEL POLICY REGARDING HARASSMENT**

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**JOHN M. CARPINO, President**

**MARY JANE MANNELLA, Clerk**

**THOMAS E. BIRKS  
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MARIO IMBARRATO  
MICHAEL C. KENNEDY  
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KATHRYN STANPHILL**

**TRUSTEES**

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**VILLAGE OF WILLOW SPRINGS**

**ORDINANCE 2018 – O – 03**

**ORDINANCE OF THE VILLAGE BOARD, VILLAGE OF WILLOW  
SPRINGS**

**APPROVING AN AMENDMENT TO THE VILLAGE PERSONNEL POLICY**

**WHEREAS**, effective November 16, 2017, the Illinois General Assembly enacted a Public Act 100-0554, an Act concerning government; and

**WHEREAS**, pursuant to the Act, each governmental unit shall adopt an ordinance establishing a policy to prohibit sexual harassment; and

**WHEREAS**, the harassment section of the personnel policy of the Village of Willow Springs Section 5.13 shall be superseded by the Amended Section 5.13 adopted by this ordinance, and attached hereto as Exhibit 1; and

**WHEREAS**, should any section or provision of this Ordinance or the adopted Amended Section be declared invalid, that decision shall not affect the validity of this Ordinance or adopted Policy as a whole or any part thereof, other than the part so declared to be invalid; and

**WHEREAS**, the Village of Willow Springs believes, and hereby declares, that it is in the best interests of the Village to approve and adopt the Amended Policy.

**THEREFORE, BE IT ORDAINED BY THE VILLAGE BOARD OF THE VILLAGE OF WILLOW SPRINGS, ILLINOIS:**

**SECTION 1:** That the Village of Willow Springs hereby approves the Amended harassment section of the personnel policy of the Village of Willow Springs Section 5.13, which is attached hereto as Exhibit 1, by passage of this Ordinance. Said Amended Section 5.13 replaces the current Section 5.13 in its entirety.

**SECTION 2:** This Ordinance shall not be held to repeal a former ordinance as to any offense committed against the former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued

or claim arising under the former ordinance, or in any way whatsoever affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred to any right accrued to claims arising before this Ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceedings, as far as practicable.

**SECTION 3:** That if any part or parts of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of the remaining parts of this Ordinance. The Village Board declare hereby that they would have passed the remaining parts of this Ordinance, if they had known that such part or parts thereof would be declared unconstitutional.

**SECTION 4:** The Village Clerk of the Village of Willow Springs is directed hereby to publish this Ordinance in pamphlet form.

**SECTION 5:** This ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form.

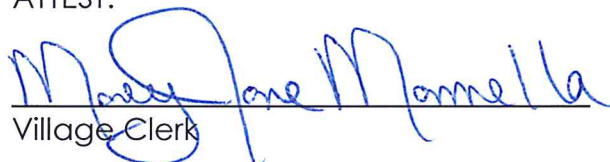
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	YES	NO	ABSENT	PRESENT
Birks	✓			✓
Carr	✓			✓
Imbarrato	✓			✓
Kennedy	✓			✓
Neddermeyer	✓			✓
Stanphill	✓			✓
(Mayor Carpino)				✓
<b>TOTAL</b>	<b>6</b>			<b>7</b>

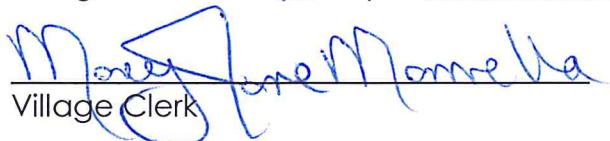
ADOPTED this 11<sup>th</sup> day of January, 2018.  
 APPROVED by me the same date as adopted.

  
 Board President

ATTEST:

  
 Village Clerk

Published in pamphlet form by order of the  
 Village Board this 11<sup>th</sup> day of January, 2018.

  
 Village Clerk





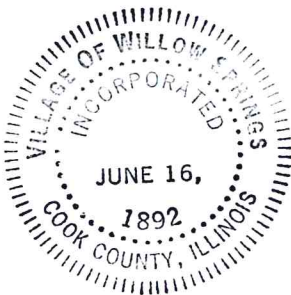
STATE OF ILLINOIS       )  
                                      ) SS  
COUNTY OF COOK       )

**CERTIFICATION**

I, Mary Jane Mannella, DO HEREBY CERTIFY that I am the duly qualified and appointed Village Clerk of the Village of Willow Springs, Cook County, Illinois, and that as such Village Clerk I do have charge of and custody of the books and records of the Village of Willow Springs, Cook County, Illinois.

I DO HEREBY FURTHER CERTIFY that the foregoing is a full, true and correct copy of **ORDINANCE NO. 2018-O-03, "AN ORDINANCE APPROVING AN AMENDMENT TO THE VILLAGE PERSONNEL POLICY REGARDING HARASSMENT"** adopted and approved by the President and Board of Trustees of the Village of Willow Springs, Illinois, on **January 11, 2018**.

IN WITNESS WHEREOF, I have hereunto affixed my hand and the Corporate Seal of the Village of Willow Springs, Cook County, Illinois on **January 11, 2018**.



  
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Mary Jane Mannella, Village Clerk  
Village of Willow Springs, Cook County, Illinois

## **EXHIBIT 1**

### **5.13 Harassment**

It is the policy of the Village of Willow Springs that all employees have the right to work in an environment free from all forms of discrimination and conduct, which can be considered harassing, coercive or disruptive, including sexual harassment.

The Village of Willow Springs prohibits the following:

- A. Sexual harassment
- B. Racial or national origin harassment
- C. Harassment based on sex, race, ethnicity, color, religion, age, national origin, disability, sexual orientation, or veteran status
- D. Harassment based on gender, gender identity/expression, sexual orientation, immigration status, disability, housing status, occupation, or language fluency.

Retaliation against anyone for making a good-faith complaint of such harassment or for cooperating in Village investigations of such complaints

Such harassment violates the Village of Willow Springs's policy:

- A. Regardless of whether it is committed by an employee, customer, vendor, agent or other third party.
- B. Regardless of the sex, race, or other characteristics of the person responsible.
- C. Regardless of whether the harassment or retaliation violates or does not violate federal, state or local law.

Violation of this policy will result in discipline, up to and including termination of employment.

"Harassment" in this policy means conduct of a harassing nature, whether in the workplace or off-site, which has the effect of interfering with someone's work performance, or which creates an intimidating, hostile, or offensive work environment.

What is acceptable, amusing, or inoffensive to some may be unwelcome, abusive, or offensive to others.

#### **A. Sexual Harassment:**

No employee, male or female, should be subject to unsolicited and unwelcome sexual overtures or conduct, whether verbal, non-verbal, or physical. Sexual

harassment is behavior that is not welcome, that is personally offensive, that debilitates morale, and that interferes with work effectiveness. If warranted, disciplinary action will be taken, up to and including involuntary termination.

Definition: Unwelcome sexual advances (either verbal or physical), requests for favors and other verbal or physical conducts of a severe nature constitute sexual harassment when:

- Submission to such conduct is either an explicit or implicit term or condition of employment (e.g., promotion, training, shift assignments, overtime assignments, etc.); or,
- Submission or rejection of the conduct is used as a basis for making any employment decision affecting such individual(s); or,
- The conduct has the purpose or effect of substantially interfering with an individual's work performance, or creating an intimidating, hostile, or offensive work environment.

Examples of sexual harassment include, but are not limited to, the following types of conduct and behavior. This list is not intended to be all-inclusive.

- Verbal: Sexual innuendo, suggestive comments, insults, threats, jokes about gender-specific traits, or sexual propositions.
- Non-Verbal: Making suggestive or insulting noises, leering, whistling, or making obscene gestures.
- Visual: Display in the workplace of posters, signs, pin-ups or slogans of a sexually nature, viewing pornographic material or websites.
- Physical: Unwelcomed hugging or kissing, touching, pinching, brushing the body, coercing physical relations, or actual assault.
- Sexually oriented entertainment in the workplace, at Village functions, or at social gatherings organized by Village employees where attendance consists predominantly of Village employees and/or others associated with the Village
- Sending sexually graphic material through the Village email system or other electronic devices (e.g., voicemail, text pagers, radios, etc.), or using the Village internet, or Village computers for viewing such material. "Sexting" (electronically sending messages with sexual content, including pictures and video), the use of sexually explicit language, harassment, cyber stalking and threats via all forms of electronic communication (e-mail, text/picture/video messages, intranet/on-line postings, blogs, instant messages and social network websites like Facebook and Twitter).

#### B. Harassment Based on Sex:



This category covers harassment motivated by an individual's sex, even if the words or conduct do not explicitly refer to the subject of sex:

- Demeaning or criticizing an individual because of his/her sex (e.g., "You're just a woman (or man), what do you know?")
- Repeated comments that demean or criticize members of his/her own sex even when made outside the hearing of such persons (e.g., "Women (or men) are so stupid they can't get anything right".)
- Sabotaging, damaging, or interfering with the work of anyone because of his/her sex
- Threatening or intimidating anyone because of his/her sex through the use of hostile or threatening words or behavior

#### C. Racial or National Origin Harassment:

The following is a list of examples of conduct that the Village considers to be harassment. This list is not intended to be all-inclusive.

- Using slurs or derogatory terms based on race, color, national origin, or ethnicity.
- Telling jokes or stories that are derogatory toward members of a particular racial or ethnic group, whether or not members of that group are present
- Displaying graffiti or other derogatory or insulting writings based on race, color, national origin, or ethnicity.
- Making degrading comments about a person of a different racial or ethnic group, or about that person's appearance

#### D. Harassment Based on Race or National Origin:

This category covers harassment motivated by an individual's race or national origin, even if the words or conduct do not explicitly refer to the subject of race or national origin:

- Demeaning or criticizing an individual because of his/her race or national origin
- Repeated comments that demean or criticize members of race or national origin even when made outside the hearing of such persons
- Sabotaging, damaging, or interfering with the work of anyone because of his/her race or national origin
- Threatening or intimidating anyone because of his/her race or national origin through the use of hostile or threatening words or behavior

#### E. Harassment Based on Religion, Age, Disability, Sexual Orientation/Identity or Veteran Status:



- Using slurs or derogatory terms about someone's religion, age, disability, sexual orientation, or veteran status
- Telling jokes or stories that are derogatory toward someone's membership in one of these groups
- Graffiti referring to such groups or a person in one of these groups
- Degrading comments about an individual in one of these groups, or about his or her appearance
- Demeaning or criticizing an individual because of his/her membership in one of these groups
- Comments that demean or criticize members of one of these groups, even when made outside the hearing of persons of that group
- Sabotaging, damaging, or interfering with the work of anyone because of his/her membership in one of these groups
- Threatening or intimidating anyone because of his/her membership in those groups

#### Prohibition Against Retaliation

The Village of Willow Springs prohibits retaliatory actions against an employee that are motivated by the fact that the employee has made a good-faith complaint of harassment, disclosed or threatened to disclose any violation of this policy, or by the fact that the employee has assisted or cooperated in a hearing, procedure to enforce, or investigation of a complaint by someone else regarding violations of this policy.

This policy protects any employee who makes a complaint of harassment honestly believing that his/her complaint is justified, even if the Village should ultimately find that complaint unfounded.

The following are examples of actions that constitute forbidden retaliation if motivated by the employee having made a good-faith complaint:

- Termination, demotion, or other discipline of the employee
- Unfavorable changes in the employee's work assignment, workload, or other terms of employment
- Talking negatively about that employee to others
- Sabotaging, damaging, or interfering with the employee's work
- Ostracizing or excluding the employee or subjecting him/her to hostile treatment within the work group
- Holding the employee to different standards on the part of supervisors or coworkers

- Other inappropriate conduct or treatment that is hostile or affects the employee's workplace, equipment, tools, or personal effects

Similar to the prohibition against retaliation contained herein, the State Officials and Employees Ethics Act (5 ILCS 430/15-10) provides whistleblower protection from retaliatory action such as reprimand, discharge, suspension, demotion, or denial of promotion or transfer that occurs in retaliation for an employee who does any of the following:

1. Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, State agency, or other State employee that the State employee reasonably believes is in violation of a law, rule, or regulation,
2. Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, State agency or other State employee, or
3. Assists or participates in a proceeding to enforce the provisions of the State Officials and Employees Ethics Act.

Pursuant to the Whistleblower Act (740 ILCS 174/15(a)), an employer may not retaliate against an employee who discloses information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. In addition, an employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. (740 ILCS 174/15(b)).

According to the Illinois Human Rights Act (775 ILCS 5/6-101), it is a civil rights violation for a person, or for two or more people to conspire, to retaliate against a person because he/she has opposed that which he/she reasonably and in good faith believes to be sexual harassment in employment, because he/she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under the Illinois Human Rights Act.

An employee, who is suddenly transferred to a lower paying job or passed over for a promotion after filing a complaint with IDHR or EEOC, may file a retaliation charge – due within 180 days (IDHR) or 300 days (EEOC) of the alleged retaliation.



Retaliation in violation of this policy is treated equally seriously as harassment, and will result in discipline up to and including termination of employment.

### Responsibility of All Employees

Whether you are a manager, supervisor, or a non-supervisory employee, you have the responsibility to make this policy work by taking all of the following actions:

- If you believe you are the target of harassment or retaliation, to the extent you feel comfortable doing so, tell the person to stop
- Immediately report any violation of this policy pursuant to the Complaint Procedure (see below)
- Cooperate with any investigation of a harassment complaint, whether brought by yourself or by someone else, by providing factual information to the Village's investigating personnel
- If other employees tell you they find your behavior or conversation unwelcome and ask you to stop, honor their request, even if you feel they are being oversensitive

### Special Responsibilities of Managers and Supervisors

Harassment, whether committed by supervisory personnel or non-supervisory personnel, is specifically prohibited as unlawful and against stated Village policy. Management is responsible for taking action against acts of harassment, regardless of whether the specific acts complained of were specifically forbidden and regardless of the manner in which the Village becomes aware of the conduct.

If you are a manager or supervisor, the Village expects you to:

- Set an example by refraining from any activity of harassment or retaliation
- Discuss this policy with all employees under your supervision
- Monitor your work area for indications of any type of harassment or retaliation
- Report any incident of harassment or retaliation that you witness or become aware of to the Village Administrator
- Immediately intervene to stop harassment, retaliation, or conduct that could be interpreted as such (for example, a member of the public engaging in harassment towards an employee could be asked to leave)
- Caution employees who appear to be engaging in such behavior



- Report all complaints of harassment or retaliation to the Village Administrator, regardless of your opinion of whether the complaint is well-founded
- After reporting the incident or complaint to the Village Administrator, cooperate with Human Resources to assure that the problem does not recur or that retaliation does not ensue

#### Complaint procedure

- Any employee who believes he or she has experienced sexual harassment or intimidation is encouraged to report the incident and file a complaint. Complaints of sexual harassment should be brought to the attention of the employee's immediate supervisor or department head.
- If the alleged harasser is the employee's immediate supervisor or department head, the employee may file the complaint with the Employee Assistance Provider (EAP). Such person to be designated by the Village Administrator.
- Employees of sex opposite of the person to whom the complaint would normally be made may choose to have their complaint heard by a member of the same sex. Employees wishing to exercise this option shall inform the EAP that they have a harassment complaint and wish to have the matter reviewed by an individual of their same sex.
- After notification of an employee's complaint, a confidential investigation will promptly be initiated to gather all facts about the complaint.
- After the investigation has been completed, a report of the findings and recommendations will be made to the Village Administrator. The Village Administrator will then make a decision and promptly notify the complainant of the outcome of the investigation.
- Any employee who claims to have been a victim of sexual harassment may file a Charge of Discrimination with the Equal Employment Opportunity Commission (EEOC) located at 500 West Madison Street – Suite 2800, Chicago, Illinois 60601, Phone 312/353/2713, or the Illinois Department of Human Rights (IDHR), 100 West Randolph – Suite 10-100, Chicago, Illinois 60601, Phone 312/814-6200. A complaint with the EEOC must be filed within 300 days. An IDHR complaint must be filed within 180 days of the alleged incident(s) unless it is a continuing offense.

An employee experiencing what he or she believes to be sexual harassment must not assume that the Village is aware of the conduct. If there are no witnesses and the victim fails to notify a supervisor or other responsible officer, the Village will not be presumed to have knowledge of the harassment.

## Non-Retaliation

This policy also prohibits retaliation against employees who bring sexual harassment charges or assist in investigating charges. Any employee bringing a sexual harassment complaint or assisting in the investigation of such a complaint will not be adversely affected in terms of conditions of employment, nor discriminated against or discharged because of the complaint.

## Confidentiality

All parties involved in the investigation of a sexual harassment complaint shall maintain information in the strictest confidence to the extent permitted by law. The disclosure of allegations of sexual harassment will be limited to only those individuals who have a need to know for an adequate investigation to be conducted.

All allegations, including anonymous reports, will be accepted and investigated regardless of how the matter comes to the attention of the Village. However, because of the serious implications of sexual harassment charges and the difficulties associated with their investigation and the questions of credibility involved, the claimant's willing cooperation is a vital component of an effective inquiry and an appropriate outcome.

## Penalties for Harassment or Retaliation

If the investigation finds that an employee has engaged in conduct that violates this policy, penalties will depend on the nature of the offense. Any and all breaches of this policy are considered serious. Appropriate discipline will be imposed, up to and including termination of employment. In investigating complaints under this policy, the Village may impose discipline for inappropriate conduct without regard to whether the conduct constitutes a violation of federal, state or local law and even if the conduct does rise to the level of violating this policy.

In addition to any and all other discipline that may be applicable pursuant to Village policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreements, any person who violates this policy or the Prohibition on Sexual Harassment contained in 5 ILCS 430/5-65, may be subject to a fine of up to \$5,000 per offense, applicable discipline or discharge by the municipality and any applicable fines and penalties established pursuant to local ordinance, State law or Federal law. Each violation may constitute a



separate offense. Any discipline imposed by the municipality shall be separate and distinct from any penalty imposed by an ethics commission and any fines or penalties imposed by a court of law or a State or Federal agency.

#### Penalties for Knowingly Making a False Report

A false report is a report of sexual harassment made by an accuser using the sexual harassment report to accomplish some end other than stopping sexual harassment or retaliation for reporting sexual harassment. A false report is not a report made in good faith which cannot be proven. Given the seriousness of the consequences for the accused, a false or frivolous report is a severe offense that can itself result in disciplinary action. Any person who intentionally makes a false report alleging a violation of any provision of this policy shall be subject to discipline or discharge pursuant to applicable Village policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreements.

In addition, any person who intentionally makes a false report alleging a violation of any provision of the State Officials and Employees Ethics Act to an ethics commission, an inspector general, the State Police, a State's Attorney, the Attorney General, or any other law enforcement official is guilty of a Class A misdemeanor. An ethics commission may levy an administrative fine of up to \$5,000 against any person who intentionally makes a false, frivolous or bad faith allegation.